
MEETING MINUTES
WATER POLLUTION CONTROL ADVISORY COUNCIL
Friday, May 8, 2015
10:00 AM – 11:00 AM
Metcalf Building
1520 E. Sixth Ave, Helena, MT 59620

PRESENT

Council Members Present:

Barbara Chillcott (by phone)
Stevie Neuman
Earl Salley
Karen Bucklin Sanchez (by phone)
Trevor Selch
Keith Smith (by phone)
Michael Wendland (by phone)
Kathleen Williams (by phone)

Council Members Absent:

Mack Cole
Mitchell Leu
Dude Tyler

Montana Department of Environmental Quality Staff Members Present:

Ed Coleman
Jon Kenning
Sarah Norman
Kristi Ponozzo
Kari Smith
Amy Steinmetz

Guests/Public Present:

Mark Fix (by phone)
Adam Haight (by phone)
Art Hayes, Jr. (by phone)
Anne Hedges
Derf Johnson
Brenda Lindlief Hall (by phone)
Vicki Marquis
Svein Neuman (by phone)
Dave Simpson
Ella Smith

CALL TO ORDER

Chairperson Trevor Selch called the meeting to order at 10:02 a.m.

APPROVAL OF AGENDA

Chairperson Selch sought a motion to approve the agenda as written. Mr. Keith Smith moved to approve the agenda; Ms. Karen Bucklin Sanchez seconded the motion. There was no opposition; the motion carried.

APPROVAL OF MINUTES

Ms. Stevie Neuman moved to approve the February 27, 2015, meeting minutes as written; Mr. Earl Salley seconded the motion. There was no opposition; the motion carried.

BRIEFING ITEMS

Legislative Summary –

Ms. Kari Smith gave an explanation of her new position within DEQ (Department of Environmental Quality). In April, Ms. Smith was hired as the Policy Advisor for DEQ's Planning, Prevention and Assistance Division. She works with communities and businesses statewide to better understand their water quality protection issues. She also works with the different DEQ programs to ensure that the agency is addressing the needs of its customers and to provide guidance and information in a cohesive and timely manner. The goal is providing cost effective, practical solutions to the implementation of water quality regulations.

Ms. Smith then provided an update on the new water and wastewater laws coming out of the 2015 legislative session. She said that the department will work closely with WPCAC (Water Pollution Control Advisory Council) to move forward during the rulemaking process.

- Senate Bill 82 – This bill was created to transfer some duties from the Environmental Quality Council to the Water Policy Committee. Most of these duties pertained to the use of rules and draft legislation as related to water quality and quantity. The bill was intended to reduce duplication of efforts and to improve efficiency.
- Senate Bill 97 – This bill provided flexibility to the department on use classifications. It allowed the agency to follow the federal use attainability analyses process.
- Senate Bill 112 – The bill sets the timeframes for completion of TMDLs (total maximum daily load) and establishes a specific process for reaching resolution on the TMDL development process.
- Senate Bill 325 – This two-part bill requires rulemaking. It reaffirms that the department will implement natural conditions as related to nonpoint source discharge permits, TMDLs, and overall watershed assessments. It also provides a variance process for when the discharge does not materially contribute to the impairment.
- House Bill 180 – This extended the deadline for the Treasure State Endowment Program (TSEP), which is the funding of regional water systems. This has been moved to 2031, which allows the funding to move forward from water systems.
- House Bill 270 – This bill provides the department with a mechanism to add compliance schedules to the Montana Pollutant Discharge Elimination System if the Environmental Protection Agency were to object to a nutrient variance contained in the permit.
- House Bill 5 – This bill, which failed, was a compilation of all funding bills. As a result of its failure, several project funding bills resurfaced in different pieces.
- House Bill 6 – This is a funding bill for water and wastewater infrastructure projects. It also includes projects for irrigation. It funded 33 of the 100 applications.
- House Bill 7 – This is a DNRC (Department of Natural Resources and Conservation) funding mechanism for Rural Development Grants.
- House Bill 8 – This bill deals with the Renewable Resource Grant and Loan Program for DNRC.
- House Bill 11 – This bill addresses the TSEP funded projects, and it funded the projects with the cash available. This was related to public water projects as well as wastewater systems and infrastructure. It also included bridges.

Mr. Smith asked for verification that the entire TSEP list was not funded this year and instead project funding was capped at the limit of available cash. Ms. Smith said that this is correct. She recommended speaking with Mr. Todd Teegarden of DEQ's Technical and Financial Assistance Bureau for specific details. She said that there was cash available for 27 of the projects that had submitted applications for TSEP funding. Mr. Smith noted that this is a change as, in the past, legislature funded the entire list. Ms. Smith agreed.

Otter Creek Site Specific EC and SAR Standards Status Update –

Ms. Amy Steinmetz said that, following the February 27 presentation to WPCAC, the department recognized that additional outreach efforts and clarification of rule language was needed for the proposed Otter Creek site specific EC (electrical conductivity) and SAR (sodium adsorption ratio) standards. Ms. Steinmetz thanked council members for their feedback during the previous meeting. She said that her presentation would provide some additional background information that was not earlier covered and would also give an update of where the department is with regard to the site specific standards.

Ms. Steinmetz described water quality standards as consisting of beneficial uses, narrative and numeric criteria, and nondegradation policy. She then briefly addressed the laws and rules that set the framework for water quality standards. Ms. Steinmetz discussed the location of the EC and SAR standards for Otter Creek within the Administrative Rules of Montana (ARM). She said that this section, which details the EC and SAR criteria, was added to ARM in 2002.

Referring to the information given by Mr. Erik Makus in the February WPCAC presentation, Ms. Steinmetz highlighted the current EC and SAR conditions of Otter Creek and discussed the department's effort to develop site specific criteria for Otter Creek based on natural conditions. She said that the numeric criteria should protect uses but not be so far below natural that they cannot be met. Site specific criteria based on natural reflect the natural condition of a stream, recognizing that beneficial uses are met but that the criteria cannot be met. In the case of Otter Creek, site specific criteria based on natural would protect uses, while recognizing that there is no room for more salt. Site specific standards would not allow Otter Creek to get worse; they would emphasize maintaining the natural condition of the stream.

Ms. Steinmetz then discussed the purpose of water quality standards. She said that standards inform decisions implemented by other programs. Examples include water quality and beneficial use assessments, TMDLs, and permits. Ms. Steinmetz noted that other states have used site specific criteria based on natural, but the concept is fairly new in Montana. To help other programs implement standards in the way intended by the department, DEQ is developing an implementation procedure. This implementation procedure addresses how to use the standards in assessment, nondegradation, and permitting.

Addressing the timeline for these site specific standards, Ms. Steinmetz said that a draft of the implementation procedure is currently being edited by DEQ staff. This draft will be ready to send out to stakeholders on May 18. Following this, the department will hold stakeholder meetings to gather feedback on the document. The deadline for stakeholder comments is June 5. After incorporating stakeholder feedback, this will return to WPCAC. The department plans to request initiation of rulemaking at the Board of Environmental Review meeting on July 31.

Ms. Kathleen Williams thanked the department for incorporating the stakeholder process.

Chairperson Selch mentioned that there were a few questions brought up at the previous WPCAC meeting. He asked if these would be addressed during the next meeting. Ms. Steinmetz replied that she could either answer the questions or indicate if they would be addressed in the next meeting. Ms. Steinmetz said that one of the previous questions brought up repeatedly was the wording of frequency and duration in the rule. This has been revised. She said that it is not different than before, but the language has been clarified. It still uses the 80th percentile but does not include that there is a 20 percent exceedance rate. In an assessment, the 80th percentile of a data set will be compared to the criterion. In a permit, the number will be calculated through the wasteload allocation to come up with an average monthly limit and a maximum daily limit.

Chairperson Selch said that one of the other questions previously raised pertained to irrigation practices. He asked if this had been looked into further. Ms. Steinmetz said that she does not believe that the irrigation practices are any different than the department had previously believed.

Public Comment –

Mr. Art Hayes, of the Tongue River Water Users Association, said that he would like to have the opportunity to present to WPCAC. He also invited folks to tour the Otter Creek area to look at irrigation practices and speak with landowners. Mr. Hayes said that he would happily facilitate a tour for interested individuals. Ms. Steinmetz mentioned that she had received a second request to present at WPCAC's June meeting. She said that accommodating public presentations is part of the public process, and that they would be pleased to make time for these during the next meeting.

Ms. Vicki Marquis, attorney at Crowley Fleck, representing Arch Coal and the Otter Creek Coal Company, thanked the department for their time and effort. She commended DEQ's public outreach efforts and collection of Otter Creek data. She added that setting the standard to natural condition is in compliance with existing state law. Ms. Marquis said that salt issues have been dealt with successfully in other locations. In these places, according to Ms. Marquis, they recognized that there are some freshwater discharges that are helpful to the watershed. Allowances were made for these discharges. Ms. Marquis encouraged the department to consider this as they look at nonsignificance criteria that would impact how the nondegradation analysis would be structured. Ms. Marquis introduced Dave Simpson, consultant of Otter Creek Coal. She explained that Mr. Simpson is available to answer questions about the mine.

Ms. Williams asked for Ms. Marquis' contact information. Chairperson Selch said that they could get that information.

Agenda Items for Next Meeting –

The next meeting is scheduled for June 26, 2015. Ms. Steinmetz said that the Otter Creek site specific criteria would be on the agenda as well as presentations from the Tongue River Water Users Association and Northern Plains Resource Council. Ms. Steinmetz suggested keeping the June agenda short and focused on this single item. Chairperson Selch agreed and asked that meeting materials be sent to Ms. Steinmetz for addition to the agenda.

ADJOURN

Mr. Salley moved to adjourn; Chairperson Selch seconded the motion. The meeting adjourned at 10:35 a.m.

REFERENCED LINKS FOR MEETING MATERIALS

(Sites last updated 5/8/2015)

May 8, 2015 Agenda -

http://deg.mt.gov/wqinfo/WPCAC/agendasMinutes/2015/May8/AGENDA_5-8-15.pdf

Agenda Links:

Minutes from February 27, 2015 -

<http://deg.mt.gov/wqinfo/WPCAC/agendasMinutes/2015/May8/2-27-2015DRAFTMinutes.pdf>

Otter Creek Site Specific EC and SAR Standards Status Update -

<http://deg.mt.gov/wqinfo/WPCAC/agendasMinutes/2015/May8/WPCACOCSSC5-8-15.pdf>

Submitted by,

Sarah Norman 5/12/2015